

BINGHAM McCUTCHEN LLP
 DONN P. PICKETT (SBN 72257)
 GEOFFREY M. HOWARD (SBN 157468)
 HOLLY A. HOUSE (SBN 136045)
 ZACHARY J. ALINDER (SBN 209009)
 BREE HANN (SBN 215695)
 Three Embarcadero Center
 San Francisco, CA 94111-4067
 Telephone: (415) 393-2000
 Facsimile: (415) 393-2286
 donn.pickett@bingham.com
 geoff.howard@bingham.com
 holly.house@bingham.com
 zachary.alinder@bingham.com
 bree.hann@bingham.com

DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 Telephone: (650) 506-4846
 Facsimile: (650) 506-7114
 dorian.daley@oracle.com
 jennifer.gloss@oracle.com

Attorneys for Plaintiffs
 Oracle USA, Inc., Oracle International
 Corp., Oracle Systems Corp., Oracle EMEA
 Ltd., and J.D. Edwards Europe Ltd.

JONES DAY
 ROBERT A. MITTELSTAEDT (SBN 060359)
 JASON McDONELL (SBN 115084)
 555 California Street, 26th Floor
 San Francisco, CA 94104
 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 ramittelstaedt@jonesday.com

JONES DAY
 THARAN GREGORY LANIER (SBN 138784)
 JANE L. FROYD (SBN 220776)
 1755 Embarcadero Road
 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 jfroyd@jonesday.com

JONES DAY
 SCOTT W. COWAN (Admitted *Pro Hac Vice*)
 JOSHUA L. FUCHS (Admitted *Pro Hac Vice*)
 717 Texas, Suite 3300
 Houston, TX 77002
 Telephone: (832) 239-3939
 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 jlfuchs@jonesday.com

Attorneys for Defendants
 SAP AG, SAP America, Inc., and
 TomorrowNow, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ORACLE USA, INC., a Colorado corporation,
 ORACLE INTERNATIONAL CORPORATION,
 a California corporation, ORACLE SYSTEMS
 CORPORATION, a Delaware corporation,
 ORACLE EMEA LIMITED, an Irish private
 limited company, and J.D. EDWARDS EUROPE
 LIMITED, an Irish private limited company,

Plaintiffs,

v.

SAP AG, a German corporation, SAP
 AMERICA, INC., a Delaware corporation,
 TOMORROWNOW, INC., a Texas corporation,
 and DOES 1-50, inclusive,

Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

STIPULATION AND [PROPOSED] ORDER REGARDING WITHDRAWAL OF DEFENDANTS' ADMINISTRATIVE MOTION TO SEAL

Case No. 07-CV-01658 PJH (EDL)

1 Plaintiffs Oracle USA, Inc. Oracle International Corporation, Oracle Systems
2 Corporation, Oracle EMEA Limited, and J.D. Edwards Europe Limited (“Plaintiffs”) and
3 Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (“Defendants,” and together
4 with Oracle, the “Parties”) jointly submit this Stipulation to withdraw Defendants’ Motion to
5 Permit Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ FRCP
6 12(b)(1) and 12(b)(6) Motion to Dismiss.

7 WHEREAS, Plaintiffs filed their Third Amended Complaint on October 8, 2008;

8 WHEREAS, Defendants filed their Motion to Dismiss on October 15, 2008;

9 WHEREAS, On the same day, October 15, 2008, Defendants filed, at Plaintiffs’
10 request, an Administrative Motion to File Plaintiffs’ Documents Supporting Defendants’ Motion
11 to Dismiss Under Seal (the “Motion to Seal”). Through the Motion to Seal, the Parties sought an
12 Order permitting Defendants to file under seal Exhibits 1 through 4 to the Declaration of Tharan
13 Gregory Lanier in Support of Defendants’ FRCP 12(b)(1) and 12(b)(6) Motion to Dismiss;

14 WHEREAS, Plaintiffs do not at this time contend that Exhibits 1 through 4,
15 referenced above, need to be filed under seal;

16 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through
17 their respective counsel of record, that Defendants hereby withdraw the Motion to Seal, filed in
18 this matter on October 15, 2008. It is further stipulated that Exhibits 1 through 4 to the
19 Declaration of Tharan Gregory Lanier in Support of Defendants’ FRCP 12(b)(1) and 12(b)(6)
20 Motion to Dismiss may be filed publicly, and that the filing shall not be construed as a waiver of
21 any confidentiality designation, right to file under seal, or other protection with respect to
22 documents or other information related or similar to, or referred to by, the filed documents.

23 **IT IS SO STIPULATED.**

1 DATED: October 22, 2008

BINGHAM McCUTCHEN LLP

2
3
4 By: /s/ Zachary J. Alinder
Zachary J. Alinder

5 Attorneys for Plaintiffs
6 Oracle USA, Inc., Oracle International Corp.,
Oracle Systems Corp., Oracle EMEA Ltd.,
7 and J.D. Edwards Europe Ltd.
8

9
10 In accordance with General Order No. 45, Rule X, the above signatory attests that
11 concurrence in the filing of this document has been obtained from the signatory below.

12 DATED: October 22, 2008

JONES DAY

13
14 By: /s/ Tharan Gregory Lanier
Tharan Gregory Lanier

15 Attorneys for Defendants
16 SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.
17
18
19

20 **PURSUANT TO STIPULATION, IT IS**
21 **SO ORDERED:**

22 DATED: _____

21 By: _____
22 Phyllis J. Hamilton
23 United States District Court Judge
24
25
26
27
28